

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU

&

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

W.A.No.123 of 2007(C)

AGAINST THE JUDGEMENT IN W.P.(C).NO.30357/2006-L DATED 12/12/2006
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APPELLANT/2ND RESPONDENT:-

CORPORATION OF KOLLAM,
REPRESENTED BY THE SECRETARY, KOLLAM.

BY STANDING COUNSEL SRI.M.K.CHANDRA MOHANDAS

RESPONDENTS/RESPONDENTS 1 & 3 AND PETITIONERS:-

1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY
TO GOVERNMENT LOCAL SELF GOVERNMENT DEPARTMENT, TRIVANDRUM.
2. THE TOWN PLANNER, KOLLAM DEVELOPMENT AUTHORITY, KOLLAM.
3. SHEELA SREEKUMAR, KAILAS BHAVAN, MARANADU P.O., KOLLAM.
4. SHEENA SREEKUMAR, KAILAS BHAVAN, MARANADU P.O., KOLLAM.
5. SHEEJA SREEKUMAR, KAILAS BHAVAN, MARANADU P.O., KOLLAM.
6. P. NATARAJAN, KAILAS BHAVAN, MARANADU P.O., KOLLAM.

R1 & R2 BY SENIOR GOVERNMENT PLEADER SMT.MEERA.
R3 TO R6 BY ADV. SMT.V.P.SEEMANDINI (SENIOR ADVOCATE)
SMT.S.KARTHIKA
SRI.M.R.ANISON
SRI.T.R.RAJESH
SMT.K.P.GEETHA MANI
SRI.M.S.UNNIKRISHNAN
SMT.T.B.REMANI

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:-

H.L.Dattu,C.J. & K.T.Sankaran,J.

W.A.No.123 of 2007-C

Dated, this the 8th day of June, 2007

JUDGMENT

H.L.Dattu,C.J.

Though the matter is posted in the Orders List, by consent of both the learned counsel, the matter is taken up for final hearing.

2. This appeal arises out of an order passed by the learned Single Judge in W.P.(C).No.30357 of 2006 dated 12.12.2006. By the impugned order, the learned Single Judge has directed the petitioners to prefer an appeal if, for any reason, they are aggrieved by the orders passed by the Secretary, Corporation of Kollam dated 10.11.2006. Having said so, the learned Single Judge has proceeded further to say something on the merits of the petitioners' case also. Being aggrieved by those observations, the Secretary of the Corporation is before us in this appeal.

3. In our view, the learned Single Judge was not justified in making any observations on the merits of the case when he was of the opinion that the petitioners should be relegated to file an appropriate appeal as provided under the provisions of the Kerala Municipalities Act.

4. We are informed by the learned counsel appearing for the respondents 3 to 6/writ petitioners that pursuant to the orders and directions issued by the learned Single Judge, the writ petitioners have filed an appropriate appeal before the first appellate authority and the same is under consideration.

5. In view of the above, the following:

Order

- (i) The appeal is disposed of.
- (ii) Now a direction is issued to the first appellate authority to decide the appeal on merits without being influenced by any one of the observations made by the learned Single Judge.
- (iii) The appellate authority shall decide the appeal on merits in six weeks' time from today.
- (iv) All contentions of both the parties are left open.

Ordered accordingly.

Consequently, I.A.No.433 of 2007 is dismissed.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/-